



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-270442.2

February 12, 1996

Steve E. Turner
Acting Director
Defense Finance and Accounting Service
Kansas City Center
Kansas City, Missouri 64197-0001

Dear Mr. Turner:

This responds to your request, dated January 23, 1996,¹ that we relieve Major Steven H. Czaikoski and his predecessor Major Lawrence T. Mullin, U.S. Marine Corps Combat Development Command (Command), Quantico, Virginia, from liability for improper payments made pursuant to fraudulent travel orders. For the reasons stated below, we conclude that the liability of Major Czaikoski and his predecessor has been settled by operation of law because the applicable statute of limitations has expired.²

The improper payments resulted from the Command making \$31,827.09 in travel advances and settlements on fraudulent travel orders issued by Marine Helicopter Squadron-1 (HMX-1). Two civilian employees of the Command conspired to obtain travel advancement and travel settlement checks for members of HMX-1. This was accomplished by stealing checks issued to marines for legitimate travel, by obtaining travel advances on fraudulently issued travel orders for HMX-1 members, and by submitting false travel claims in the names of HMX-1 members and receiving and negotiating the checks.

¹We were advised that the request for relief was originally submitted in a timely fashion. However, we have been unable to locate any evidence that it was ever received by this Office. The January 23, 1996, request resulted from your Office's follow-up action.

²The improper payments occurred during the period of August 1989 through January 1990. On October 1, 1989, Major Czaikoski took over as head of the Disbursing Branch of the Command from Major Mullin.

The fraudulent scheme was discovered as a result of changes made by HMX-1 in procedures for obtaining Temporary Additional Duty orders and travel advances. Discrepancies were almost immediately noted and a Marine Corps member was assigned to investigate and resolve the discrepancies. The two civilian employees responsible for the scheme, in an attempt to thwart the investigation, murdered the member conducting the investigation. As a result of the murder and the ensuing investigation, the fraudulent activities of the two civilian employees were discovered. The two employees were found guilty of the murder of the member and are currently serving 30-year prison terms.

As accountable officers, Major Czaikoski and Major Mullin are strictly liable for the deficiency in their accounts resulting from the improper payments. 62 Comp. Gen. 476, 479-80 (1983). Under 31 U.S.C. § 3527(c), we may relieve a disbursing official from liability for a deficiency resulting from an improper payment if we determine that the payment was not the result of bad faith or lack of reasonable care by the disbursing official, and that diligent collection efforts were made. B-239122, Feb. 21, 1991. However, our authority to grant relief expires "3 years after the date the Comptroller General receives the account," except when the loss is due to fraud or criminality by the accountable officer. 31 U.S.C. § 3526(c). The settlement of an account is conclusive on the Comptroller General at that time. Id.

We consider the Comptroller General to have "received" the account at the end of the period of accountability when the agency's accounts are substantially complete for audit purposes, i.e., when the various documents supporting the applicable statement of accountability are available to the agency and GAO for audit. B-239802, Apr. 3, 1991. If the loss is due to fraud, as is the case here, the 3-year period begins when the loss is discovered and reported to the appropriate agency officials. GAO, Policy and Procedures Manual for the Guidance of Federal Agencies, tit. 7, § 8.7 (May 1993).

The Marine Corps became aware of the fraud on or about March 1990, if not earlier, when the two murder suspects admitted to the murder and stated that their motive was the cover-up of the HMX-1 embezzlement scheme; consequently, the 3-year limitation period expired in March 1993. Thus, since we find no evidence of fraud or criminality by Major Czaikoski or Major Mullin, their accounts are settled by operation of law and they are not responsible for the improper payments.

Sincerely yours,

Gary L. Kepplinger
Associate General Counsel

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DIGEST

Request for relief received after the running of the 3-year statute of limitations, 31 U.S.C. § 3526(c), cannot be considered by our Office as the accountable officers' account is settled by operation of law and the officers are no longer liable for any deficiency in the account.